

## University of California, Hastings College of the Law UC Hastings Scholarship Repository

---

Propositions

California Ballot Propositions and Initiatives

---

1932

# REMOVING RESTRICTION UPON USE OF STATE'S HALF OF HIGHWAY TRANSPORTATION TAXES

Follow this and additional works at: [http://repository.uchastings.edu/ca\\_ballot\\_props](http://repository.uchastings.edu/ca_ballot_props)

---

### Recommended Citation

REMOVING RESTRICTION UPON USE OF STATE'S HALF OF HIGHWAY TRANSPORTATION TAXES California  
Proposition 4 (1932).  
[http://repository.uchastings.edu/ca\\_ballot\\_props/284](http://repository.uchastings.edu/ca_ballot_props/284)

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact [marcusc@uchastings.edu](mailto:marcusc@uchastings.edu).

## Argument Against Initiative Proposition No. 3

This measure was prepared and is sponsored by The Lawyers' Club of Los Angeles, an organization not to be confused with the Los Angeles Bar Association nor the State Bar.

We recommend a "NO" Vote on this measure, because:

(1) It will give no relief whatever to borrowers who have given either trust deeds or mortgages to secure their loans. On the contrary, it will cause distress to thousands of borrowers, particularly on homes, by making difficult the renewal of existing loans when they become due. Most existing loans will have to be reduced from 15% to 20%, to enable the lender to safely renew the loan. Many borrowers will find it impossible to do this, causing unwarranted hardship and injustice.

(2) By requiring everyone to go to court to foreclose a mortgage, it will increase foreclosure costs, court congestion, and public expense, with benefit to no one except those who profit by foreclosure fees.

(3) The measure will delay a revival of building construction and the employment of labor by making difficult and costly the financing of building operations.

(4) It will depreciate the value of all real estate by restricting credit for loans at a time when every effort is being made to maintain values and credit.

(5) It will make precarious the lending of money to farmers, particularly on irrigated lands, thus adding to the farmers' present difficulties.

(6) The protection now given the home owner, under existing law, requiring the lender under a trust deed to file a notice and wait three months before commencing foreclosure, during which time the home owner may remain in possession, is repealed. Under this measure, foreclosure may be commenced immediately, and if the borrower fails to pay

the rent fixed by the court for 15 days, he may be thrown out of possession.

(7) The argument that the measure protects borrowers by giving a year's "equity of redemption" is specious. The right to redeem, without possession, is of little value to him, and he is only permitted to redeem by paying the amount of the sale, court costs, commissioner's fees, fees of lenders, lawyer, taxes, and interest on the whole amount.

(8) The measure does not prevent the taking of deficiency judgments. It does not affect existing loans.

(9) The subject is complicated, highly technical and not appropriate to the initiative process. It contains numerous errors and ambiguities which will cause litigation and may necessitate frequent action by the people at future elections to correct. The subject should be handled by the Legislature.

A careful perusal of this measure in its entirety discloses that its adoption is not in the public interest. It appears to be class legislation, selfishly designed to benefit a particular professional group at the expense of the borrowing public.

H. L. CARNAHAN,  
Formerly Lieutenant-Governor of California.

WILLIAM MAY GARLAND,  
Realtor.

WILLIAM H. MCCARTHY,  
President Home Value Protective League.

HENRY W. O'MELVENY,  
Senior Member O'Melveny, Tuller & Meyers, Attorneys.

GEORGE A. SCHNEIDER,  
Lecturer on Real Estate Finance, University of Southern California.

CHARLES D. ROETH,  
President Northern California Building Congress.

### REMOVING RESTRICTION UPON USE OF STATE'S HALF OF HIGHWAY TRANSPORTATION TAXES. Senate Constitutional Amendment 22. Amends Section 15 of Article XIII of Constitution. Eliminates from present section provision therein which requires that

4

State's half of revenue from taxes upon highway transportation companies be devoted exclusively to the maintenance and repair of public highways.

YES

NO

(For full text of measure, see page 5, Part II)

### Argument in Favor of Senate Constitutional Amendment No. 22

Senate Constitutional Amendment No. 22 proposes to change the manner of the allocation of the moneys received from the taxation of motor vehicles engaged in the transportation of

passengers and freight, or of freight, so that one-half of such proceeds shall be diverted to the general fund for general state purposes, and the remaining one-half shall go to the counties for road purposes only. Section 15, Article XIII, of the constitution, which Senate Constitutional Amendment No. 22 proposes to amend,

[Nine]

now provides that one-half of such revenue now being received by the state shall be used for highway purposes only. The amendment would turn this money into the general fund thus augmenting the general income of the state.

The 1929 Legislative Tax Committee after a study of the tax situation in California recommended such a change. The revenues derived are from a tax upon the gross receipts of the motor vehicle transportation companies. Other such taxes upon steam or electric transportation companies go into the general fund. It is a tax upon the business of transporting passengers and freight and not a tax for the use of the highways; the latter is met by the gasoline tax and the vehicle weight tax. The highway department no longer needs the money

involved in these taxes while the general fund does need them.

The proposed amendment does not alter the situation of the counties. They will continue to receive one-half of the proceeds of the tax which will be devoted to road purposes within the counties as at present.

The amendment should be adopted. It works no injury to the highway department of the state and does give needed additional revenue to the general fund.

CHARLES H. DEUEL,  
State Senator, Sixth District.

HERBERT J. EVANS,  
State Senator, Thirty-fifth District.

**RACING. Initiative Measure.** Creates California Racing Board, consisting of three members, appointed by Governor, empowered to regulate and license racing and wagering, within race track enclosure, by system known as Certificate System; limits racing period at each track; requires all fees collected by board be paid into California

**5** Racing Board Fund, appropriating Thirty Thousand Dollars thereof annually for payment of salaries and expenses of members of Board and its appointees, and annually dividing balance thereof between Veterans' Welfare Board and State Board of Agriculture; authorizes licenses for limited periods at county fairs or agricultural exhibits.

YES

NO

(For full text of measure, see page 7, par. 11)

#### Argument in Favor of Initiative Proposition No. 5

The State of California is being deprived of a huge revenue through the lack of a law requiring racing associations to pay a tax or license fee. The income from this source would reach such a figure that it would lower the rate of taxation and help relieve the burden on our taxpayers.

Initiative Measure No. 5 will require all racing associations to pay a license fee of \$2,000 for each racing day in Los Angeles and San Francisco counties and \$1,500 for each racing day in other counties.

At present these associations are operating over the State free from taxes and State control. Plans are going forward for the construction of many more tracks. They should be placed under control and taxed.

The money derived from these enterprises will amount to approximately \$1,000,000 annually and will be divided equally between the State Board of Agriculture and the State Veterans' Welfare Board.

A half million dollars for each of these departments will take their maintenance expense off the hands of the taxpayers. In addition, it will give each department more money to further the scope of its work. This will be a direct benefit to every taxpayer, farmer, stock raiser, fruit grower and war veteran in the State.

The measure will place race courses under strict control of a commission appointed by the Governor, and the commission will rule on all permits for racing, limiting the duration of meetings to 25 days or less at regular tracks and seven days or less at fairs. Only one track will be permitted in each county and it may operate only between the hours of 7 a.m. and 7 p.m. The measure provides for the certificate system.

Regulated racing under this plan will place the sport on a high plane. In Florida, a rival State of California for winter vacationists, racing under the plan proposed here is proving a decided asset to the State, inasmuch as it attracts wealthy sportsmen, society folk and tourists.

The operation of a large race course will require the services of between 1500 and 2000 persons. This will mean employment for thousands over the State now out of work.

Passage of this measure also will be a boon to the thoroughbred breeding industry of the State, a lucrative field for which Kentucky is noted. California might easily become the breeding center of the world.

Certain interests which are opposing the measure by reason of personal gain have attacked its legality. Superior Judge Malcolm Glenn, ruling on an injunction, held the measure constitutional and legal.

---

PART II  
APPENDIX

---

mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record; or to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the commissioner of corporations; or is made by a public utility subject to the provisions of the public utilities act; until, (a) the trustee, mortgagee, or beneficiary, shall first file for record, in the office of the recorder of the county wherein the mortgaged or trust property or some part thereof is situated, a notice identifying the mortgage or deed of trust and giving the book and page where the same is recorded or a description of the mortgaged or trust property, and containing a statement that a breach of the obligation for which such mortgage or transfer in trust is security has occurred; and of his election to sell or cause to be sold such property to satisfy the obligation; (b) not less than three months shall thereafter elapse; and (c) the mortgagee, trustee or other person authorized to make the sale shall give notice of the time and place thereof, in the manner and for a time not less than that required by law for sales of real property upon execution.

2021a. Where by the terms of any trust or deed of trust a power of sale is conferred upon the trustee, the attorney for such trustee may conduct the sale and act in such sale as the auctioneer for the trustee.

2022. A power of sale may be conferred by a mortgage upon the mortgagee or any other person; to be exercised after a breach of the obligation for which the mortgage is a security.

Sec. 11. The Legislature shall have the power to amend this act in furtherance of the objects and purposes of this act, provided, that the Legislature shall not in any manner whatsoever abridge the requirements of the foreclosure of mortgages by an action in a Court of competent jurisdiction, or the right of redemption for a period of twelve months after the foreclosure sale.

Sec. 12. Actions to foreclose mortgages shall be set for trial at the earliest possible date and shall take precedence of all other cases except matters to which special precedence may be given by law.

Sec. 13. Whenever this act, or any part or section thereof is interpreted by a Court, it shall be liberally construed so as to provide for the foreclosure of all encumbrances on real property by court procedure, and so as to provide for a twelve-months period of redemption after foreclosure sale.

#### Section 14.

1. If any section, sub-section, or sub-division of this act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

2. If this act should be held to be unconstitutional because of the existence herein of any section, sub-section, or sub-division, such section, sub-section or sub-division shall be deleted and the remainder of the act shall be construed without such section, sub-section, or sub-division.

3. Any agreement to waive, or the waiver of, any provision of this act shall be deemed to be in violation of public policy and is expressly prohibited.

## REMOVING RESTRICTION UPON USE OF STATE'S HALF OF HIGHWAY TRANSPORTATION TAXES. Senate Constitutional Amendment

22. Amends Section 15 of Article XIII of Constitution. Eliminates from present section provision therein which requires that State's half of revenue from taxes upon highway transportation companies be devoted exclusively to the maintenance and repair of public highways.

4

YES

NO

Senate Constitutional Amendment No. 22—A resolution to propose to the people of the State of California an amendment of the constitution of said state by amending section 15 of article XIII thereof, relating to revenue and taxation.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its regular session commencing on the fifth day of January, 1931, two-thirds of all the members elected to each of the two houses of said Legislature voting in favor thereof, hereby proposes to the people of the State of California that section 15 of article XIII of the constitution of the State of California be amended to read as follows:

(This proposed amendment expressly amends an existing section of the constitution; therefore EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW

PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

#### PROPOSED AMENDMENT TO THE CONSTITUTION.

Sec. 15. Taxes levied, assessed and collected as hereinafter provided upon companies owning, operating or managing any automobile, truck or auto truck, jitney bus, stage or auto stage used in the business of transportation of persons or property as a common carrier for compensation over any public highway in this state between fixed termini or over a regular route, other than busses used exclusively for the transportation of pupils to or from any public school, when owned or operated by the school or school district, shall be entirely and exclusively for state highway purposes, and shall be levied, assessed and collected in the manner hereinafter provided. The word "companies," as used in this section, shall

[Five]



include persons, partnerships, joint stock associations, companies and corporations.

(a) All such companies engaged in the business of transportation of persons, or persons and baggage, or persons and express, or persons, baggage and express where the same is transported on the same automobile, jitney bus, stage or auto stage transporting said persons shall annually pay to the state a tax upon their franchises, cars, equipment, and other property, or any part thereof, used exclusively in the operation of their business in this state, equal to four and one-quarter per cent of the gross receipts from operations of such companies, and each thereof, within this state.

All such companies operating trucks or auto trucks engaged in the business of transporting property shall annually pay to the state a tax upon their franchises, trucks or auto trucks, equipment, and other property, or any part thereof, used exclusively in the operation of their business in this state, equal to five per cent of the gross receipts from operations of such companies, and each thereof, within this state.

When such companies are operating partly within and partly without this state, the gross receipts within this state shall be deemed to be all receipts on business beginning and ending within this state, and a proportion, based upon the proportion of the mileage within this state to the entire mileage over which such business is done, of receipts on all business passing through, into, or out of this state.

Such taxes shall be in lieu of all other taxes and licenses, state, county and municipal, upon the property above enumerated of such companies; provided, that nothing herein shall be construed to release any such company from the payment of any amount to be paid or required by law to be paid for any special privilege or franchise heretofore granted by any of the municipal authorities of this state.

One-half of the revenues from the taxes provided for in this section shall be deposited in the general fund and shall be applied and the same are hereby appropriated one-half to the State of California to be devoted exclusively to the maintenance and repair of public highways within this state, and the remaining one-half shall be apportioned among the respective counties of this state, in the proportion that the number of motor vehicles registered within such county for the preceding calendar year bears to the total number of motor vehicles

registered in the State of California under the motor vehicle act of such state for the preceding year, and such sums so paid to said counties shall be devoted exclusively to the maintenance and repair of public highways within such county. In the event that all other state revenues are at any time deemed insufficient to meet the annual expenditures of the state, there may be levied in the manner to be provided by law, a tax, for state purposes, on all the property in the state, including the classes of property enumerated in this section, sufficient to meet the deficiency. All property enumerated in this section shall be subject to taxation, in the manner provided by law, to pay the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township, or district on the first day of October, one thousand nine hundred and twenty-five. The taxes so paid for principal and interest on such bonded indebtedness shall be deducted from the total amount paid in taxes hereunder.

(b) All the provisions of this section shall be self-executing, and the Legislature shall pass all laws necessary to carry this section into effect, and shall provide for the valuation and assessment of the property enumerated in this section, and shall prescribe the duties of the state board of equalization and any other officers in connection with the administration thereof.

The rates of taxation fixed in this section shall remain in force until changed by the Legislature, two-thirds of all the members elected to each of the two houses voting in favor thereof. The taxes herein provided for shall become a lien on the first Monday in March of each year after the adoption of this section and shall become due and payable on the first Monday in July thereafter. The gross receipts herein mentioned shall be computed for the year ending the thirty-first day of December prior to the levy of such taxes and the value of any property mentioned herein shall be fixed as of the first Monday in March. Nothing herein contained shall affect any tax levied or assessed prior to the adoption of this section.

(c) No injunction shall ever issue in any suit, action or proceeding in any court against this state or against any officer thereof to prevent or enjoin the collection of any tax levied under the provisions of this section; but after payment action may be maintained to recover any tax illegally collected in such a manner and at such time as may now or hereafter be provided by law.